

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TRIS PHARMA, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 14-1309-GMS
	)	(Consolidated)
ACTAVIS LABORATORIES FL, INC.,	)	
	)	
Defendant.	)	
	)	
	)	
TRIS PHARMA, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C. A. No. 15-969-GMS
	)	
ACTAVIS LABORATORIES FL, INC.,	)	
	)	
Defendant.	)	
	)	
	)	

## **STIPULATION AND ORDER OF CONSOLIDATION**

WHEREAS on October 15, 2014, Plaintiff Tris Pharma, Inc. (“Tris”) filed a complaint in C.A. No. 14-1309-GMS against defendant Actavis Laboratories FL, Inc. (“Actavis”) alleging infringement of U.S. Patent Nos. 8,465,765, 8,563,033 and 8,778,390 in connection with the filing by Actavis of Abbreviated New Drug Application (“ANDA”) No. 206049 seeking approval to manufacture and sell a generic version of Tris’s Quillivant XR® product prior to the expiration of those patents;

WHEREAS on May 15, 2015, Tris filed a complaint in C.A. No. 15-393-GMS against defendant Actavis alleging infringement of U.S. Patent No. 8,956,649 (“the ‘649 patent”) in

connection with the filing by Actavis of ANDA No. 206049 seeking approval to manufacture and sell a generic version of Tris's Quillivant XR® product prior to the expiration of that patent;

WHEREAS on July 13, 2015, the parties filed a stipulation seeking consolidation of C.A. No. 14-1309-GMS and C.A. No. 15-393-GMS on the grounds that, among other things, the same Actavis product was at issue in both cases and consolidation would promote judicial economy and the convenience of the parties;

WHEREAS by order dated July 16, 2015, the Court approved the parties' July 13, 2015 stipulation, consolidated C.A. No. 14-1309-GMS and C.A. No. 15-393-GMS for all purposes and directed that all future filings be made only in C.A. No. 14-1309 (Cons.).

WHEREAS on October 23, 2015, Tris filed a complaint in C.A. No. 15-969-GMS against defendant Actavis alleging infringement of U.S. Patent No. 9,040,083 ("the '083 patent") in connection with the filing by Actavis of ANDA No. 206049 seeking approval to manufacture and sell a generic version of Tris's Quillivant XR® product prior to the expiration of that patent;

WHEREAS the same Actavis product at issue in C.A. No. 15-969-GMS is at issue in C.A. No. 14-1309-GMS (Cons.); and

WHEREAS the parties agree that consolidation of C.A. No. 15-969-GMS and C.A. No. 14-1309-GMS (Cons.) will promote judicial economy and convenience of the parties;

IT IS THEREFORE HEREBY STIPULATED AND AGREED by and between Tris and Actavis, through their undersigned counsel and subject to the approval of the Court, that:

1. **Consolidation.** C.A. No. 14-1309-GMS (Cons.) and C.A. 15-969 are consolidated for all purposes, including trial. All papers shall be filed in C.A. 14-1309-GMS (Cons.).

2. **Schedule.** The parties shall abide by the Scheduling Order (D.I. 37) entered in C.A. No. 14-1309-GMS (Cons.).

3. **Disclosure of asserted claims.** On or before December 22, 2015, Plaintiff shall provide a list of asserted claims for the '649 and '083 patents.

4. **Delaware Default Standard ¶ 4(c) Disclosure.** On or before January 8, 2016, Plaintiff shall amend its initial claim chart to relate each accused product to the asserted claims of the '649 and '083 patents in accordance with ¶ 4(c) of the Delaware Default Standard for Discovery, Including Discovery of Electronically Stored Information (ESI).

5. **Delaware Default Standard ¶ 4(d) Disclosure.** On or before January 22, 2016, Defendant shall amend its initial invalidity contentions to address each asserted claim of the '649 and '083 patents, as well as the related invalidating references (e.g., publications, manuals and patents) in accordance with ¶ 4(d) of the Delaware Default Standard for Discovery, Including Discovery of Electronically Stored Information (ESI).

6. Consolidation of the above actions moots the requirement that Tris and Actavis file a Joint Status Report pursuant to the Court's November 20, 2015 Case Management Order (D.I. 12) in C.A. No. 15-969-GMS.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Gregory M. Sleet  
United States District Judge